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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(MIDDLESEX COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE JUNE 1, 1989 AMENDMENT
TO THE MIDDLESEX COUNTY DISTRICT
SOLID WASTE MANAGEMENT PLAN

BY ORDER OF THE COMMISSIONER:

A. Introduction

The New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) established a comprehensive system for the management of solid waste in New Jersey. The Act designated all twenty-one (21) of the state's counties, and the Hackensack Meadowlands District, as Solid Waste Management Districts, and mandated that the Boards of Chosen Freeholders and the Hackensack Meadowlands Development Commission develop comprehensive plans for waste management in their respective districts. On July 29, 1980, the Department approved, with modifications, the Middlesex County District Solid Waste Management Plan.

The Act requires that all district plans be based on and accompanied by a report detailing the existing waste disposal situation in the district, and a plan which includes the strategy to be followed by the district in meeting the solid waste management needs of the district for the ten-year planning period. The report must detail the current and projected waste generation for the district, inventory and appraise all facilities in the district, and analyze the waste collection and transportation systems which serve the district. The disposal strategy must include the maximum practicable use of resource recovery techniques. In addition to this strategy, the plan must designate sufficient available suitable sites for the disposal of the district's waste for the ten-year period, which sites may be in the district or, if none are available, in another district. (The Act provides procedures for reaching any necessary interdistrict agreements.)

The Act further provides that a district may review its plan at any time and, if found inadequate, a new plan must be adopted. The Middlesex County Board of Chosen Freeholders completed such a review and on June 1, 1989, adopted an amendment to its approved district solid waste management plan.

The June 1, 1989, amendment included Plan Amendments 1989-2, 1989-3, 1989-4, and 1989-5. Plan Amendment 1989-2 proposed the plan inclusion of an interim vertical expansion of the existing Edison Municipal Landfill and a subsequent horizontal expansion of that landfill. Additional properties for

the horizontal expansion have been specifically identified in the proposed amendment. Plan Amendment 1989-3 provides for an immediate redirection of certain waste types generated within Edison Township, Highland Park Borough, and Metuchen Borough to the Edgeboro Landfill. Additionally, Plan Amendments 1989-4 and 1989-5 proposed the plan inclusion of Garden State Paper Company's sorting and upgrading facility and S.D. & G. Aggregates' crushing and screening facility, respectively, as recycling facilities. The two proposed recycling facilities are located within the Borough of Carteret.

The June 1, 1989 amendment was considered complete by the Department of Environmental Protection on June 9, 1989 and copies were distributed to various state level agencies for review and comment as required by law. The Department has reviewed this amendment, as well as the entire Middlesex County District Solid Waste Management Plan, and has determined that the amendment adopted by the Middlesex County Board of Chosen Freeholders on June 1, 1989 is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while certain requirements of the Act concerning the report have been met, the district's plan remains deficient in one important way.

B. Findings and Conclusions with Respect to the Middlesex County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I, Christopher J. Daggett, Commissioner of the Department of Environmental Protection have studied and reviewed the June 1, 1989 amendment to the Middlesex County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that the approved portions of this plan amendment are consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendments to fifteen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various agencies, bureaus, and divisions within the Department of Environmental Protection as well as the Board of Public Utilities. Also among these agencies were the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Division of Parks and Forestry, the State Departments of Agriculture and Transportation, the Green Acres Program, and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our request for comments: the N.J.D.E.P. Division of Coastal Resources, the State Departments of Health, Community Affairs and the Public Advocate, the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. The N.J.D.E.P. Divisions of Environmental Quality, Fish, Game and Wildlife, Water Resources and Solid Waste Management, and the Board of Public Utilities submitted substantive comments which are further addressed below.

The Division of Environmental Quality (DEQ) provided general comments with respect to landfills and recycling centers, as well as specific comments regarding S.D. & G. Aggregates. With respect to the proposed expansion of

the Edison Municipal Landfill, DEQ's general landfill comments indicated that landfills are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution," which prohibits odors and other air contaminants which interfere with the enjoyment of life or property. Additionally, new and closed landfills should be equipped with positive ventilation systems, which direct landfill gases to air pollution control devices. These air pollution control devices require air pollution control permits pursuant to N.J.A.C. 7:27-8.2(a)1 and 16.

With respect to recycling facilities, DEQ noted that they are also subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." Additionally, recycling facilities are subject to N.J.A.C. 7:27-8.2(a)16, which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants. Further, if the combustion of used oil or a mixture of used oil and other oil will occur, the facility will be subject to the provisions of N.J.A.C. 7:27-8.2(a)13, which specifies that such combustion can only occur in controlled devices with air pollution control apparatus specific to the combustion of used waste oil.

Specifically, with regard to the proposal to include S.D.& G. Aggregates as a recycling facility, DEQ noted that the use of crushers and screens will necessitate the control of particulate emissions to the air. Pursuant to N.J.A.C. 7:27-8.2(a) 7, 11, 15, and 16, air pollution control apparatus or equipment will be required. Furthermore, the recycling of asphalt may release organic substances into the air. Therefore, the recycling equipment and any bituminous concrete plants which use the recycled asphalt may need air pollution apparatus to control organic substance emissions. Additionally, air pollution control permits for existing bituminous concrete plants would have to be revised to include recycled asphalt.

In response, the Department concurs with all of DEQ's comments regarding the proposed amendments, and further notes that with respect to the Edison Municipal Landfill, if the closure plan for this facility requires a positive ventilation system, these requirements would continue to apply even though the proposed expansion is being rejected. By copy of this certification, Middlesex County is hereby notified of each of DEQ's requirements.

The Division of Fish, Game & Wildlife (DFGW) commented that it had no objection to the proposed vertical expansion of the Edison Municipal Landfill. However, given the proximity of the facility to the Raritan River and its wetlands, DFGW noted that the issue of wetlands losses, mitigation, and site contamination as it applies to water quality protection must be properly addressed when the horizontal expansion is considered. In response, the Department shares these concerns. However, because of the Department's decision to reject the proposed expansion at the plan amendment stage, DFGW's comments do not need to be addressed at this time.

The Division of Water Resources (DWR) offered several comments related to the proposed landfill expansion and recycling facilities. First, any wastewater generated by these facilities should be treated at the Middlesex County Utilities Authority sewage treatment plant. This includes leachate

generated by the proposed landfill expansion and sanitary wastewaters generated at the new commercial building of the proposed recycling facility. Further, a Water Quality Plan amendment may be necessary for any new or expanded wastewater discharges.

DWR also noted that the U.S. Fish, Game and Wildlife Inventory maps indicate wetlands in the area of the proposed expansion of the Edison Municipal Landfill. Further, DWR has directed Edison Township to submit a compliance monitoring program to evaluate the source and extent of ground water contamination detected at the Edison Municipal Landfill. Edison Township has thus far refused to satisfactorily comply with this directive. Because of the presence of contamination, and due to the proximity of the existing landfill and its proposed expansion to surface water bodies, DWR considers the Edison Municipal Landfill as an uncontrolled contamination site, and indicated that the proposed expansion of the facility would be inconsistent with DWR's plans and programs.

In response to DWR's general comments regarding wastewater from landfills and recycling facilities, the Department concurs with these comments and by way of this certification notifies Middlesex County of these requirements. With respect to their specific comments regarding the Edison Municipal Landfill expansion proposal, the Department notes that the existing ground water contamination and Edison Township's failure to satisfactorily address that contamination were primary factors in the Department's decision to reject the proposed landfill expansion at the plan amendment stage.

The Board of Public Utilities (BPU) noted that any increase in the disposal fee at the Edison Municipal Landfill resulting from the proposed expansion must be approved by the BPU. The Department concurs with the BPU's comments. However, in light of the decision to reject the proposed expansion at the plan amendment stage, BPU's comments need not be addressed at this time.

The Division of Solid Waste Management (DSWM) reiterated their comments with regard to the previous expansion proposal of July 7, 1988, that the Edison Municipal Landfill has a history of non-compliance with the regulatory programs administered by DSWM. The Edison Municipal Landfill has never been in compliance with conditions 6-9 of its original Engineering Design Approval, which was issued October 13, 1978. These conditions include installation of a dike/cut-off wall, leachate collection system, and methane gas vents, and the collection and treatment of leachate. Degradation of groundwater is also a concern. DSWM further stated that, in accordance with the proposed plan amendment, Edison Township is seeking a vertical expansion of the landfill to provide additional volumetric capacity while the design, permitting, and construction of the horizontal expansion is underway. However, DSWM could not approve a vertical expansion due to Edison Township's failure to implement a definitive remedial construction program of dikes, cut-off walls, and a leachate collection and management system for the existing landfill. A landfill expansion, whether horizontal or vertical, is considered a new facility subject to existing state-of-the-art requirements. The design and permitting of a vertical expansion could require as much time as the design and permitting of a horizontal expansion. Furthermore, DSWM questioned whether the design and permitting of the

proposed horizontal expansion could be achieved before the existing capacity at the Edison Municipal Landfill is reached.

Additionally, with respect to the proposal to redirect solid waste from the Edison Municipal Landfill to the Edgeboro Landfill, DSWM notes that Middlesex County has proposed the redirection of waste types 13, 23, 25, and 27; however, the discussion portion of the amendment indicates that all commercial and industrial waste would be directed away from the Edison Municipal Landfill. Most commercial waste would fall within the definition of solid waste type 10, Municipal Waste, which would continue to be directed to the Edison Municipal Township Landfill pursuant to the proposed waste flow redirection.

In response, the Department notes that DSWM's comments with regard to the compliance history of the Edison Landfill, were instrumental in the Department's decision to reject the proposed expansion at the plan amendment stage. With regard to the waste flow redirection, the Department acknowledges DSWM's comments, and by copy of this certification notifies Middlesex County of same.

C. Certification of Middlesex County District Solid Waste Management Plan Amendment

I, Christopher J. Daggett, Commissioner of the Department of Environmental Protection, in accordance with N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 13:1E-21, which established specific requirements regarding the contents of the district solid waste management plans, have reviewed the June 1, 1989 amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the June 1, 1989 amendment is approved in part and rejected in part as further specified below.

The inclusion within the county plan of Block 400, Lots 10-13, 16-18, 20-23, and 28 in Edison Township, Middlesex County, for the purpose of a horizontal expansion of the Edison Municipal Landfill, as well as the plan inclusion of a vertical expansion of the Edison Municipal Landfill is hereby rejected. As indicated in Section A., the June 1, 1989 expansion proposal is in response to the Department's rejection of July 7, 1988 Middlesex County plan amendment which also proposed an expansion of the Edison Landfill. The rejection of that earlier plan amendment indicated that the expansion proposal would be reconsidered by the Department if numerous items of concern were adequately addressed in a subsequent plan amendment submission. In the June 1, 1989 plan amendment proposal, Middlesex County addressed some of the Department's earlier concerns, particularly as they relate to consistency with the existing county plan, but the Department's concerns regarding existing environmental problems were not adequately addressed. While a subsequent letter from Edison Township on August 16, 1989 provided some discussion on this issue, the letter failed to provide satisfactory information and assurances as to how existing environmental problems will be addressed. Since ground water contamination has been detected at the Edison Municipal Landfill, Edison Township, (the landfill operator), has neither complied with the Division of Water Resources' directive by submitting a satisfactory compliance monitoring plan, nor have they adequately

demonstrated that they are not a responsible party to the contamination. Furthermore, the facility has failed to comply with the conditions of its October 13, 1978 Engineering Design Approval which required installation of a dike/cut off wall, leachate collection system, methane gas and the collection and treatment of leachate. Also, a review of the Department's files indicates that the Edison Municipal Landfill has also failed to install scales, and to submit an approvable closure plan to the Department for review. While the proposed expansion would be considered as a new, separate facility, the Department does not believe the facility's history of non-compliance can be categorically dismissed. Due to this failure to satisfactorily address the existing deficiencies, the Department cannot, consistent with protecting the environment, allow a landfill expansion either vertically or horizontally to be pursued.

The proposal to redirect solid waste types 13, 23, 25, and 27 generated within Edison Township, Highland Park Borough, and Metuchen Borough from the Edison Municipal Landfill to the Edgeboro Landfill is hereby rejected. The proposed redirection was requested to preserve the existing capacity at the Edison Municipal Landfill in order to continue operations during the permitting and construction phase of the proposed expansion. Based upon the Department's decision to reject the proposed landfill expansion at the plan amendment stage, and the fact that the above redirections provide for the redirection of the waste currently directed to the Edison Municipal Landfill upon its closure, the proposed redirection is no longer necessary. The Department finds no reason to disrupt the Middlesex County waste flow at this time, by immediately redirecting a portion of the waste stream to the Edgeboro Landfill, and then once again upon the closure of the Edison Municipal Landfill (which is anticipated to occur in the near future), when the remainder of the county's waste stream is redirected to the Edgeboro Landfill.

The inclusion within the county plan of a recycling facility at Garden State Paper Company's sorting and upgrading facility at Block 3, Lot 2 and 4 in Carteret Borough to remove contaminants from used newspaper is hereby approved by the Department.

The inclusion within the county plan of a recycling facility at the existing S.D. & G. Aggregates' crushing and screening facility at Block 5.2, Lot 1.2 in the Borough of Carteret to convert concrete, bricks, stone and blacktop into uniform sizes of aggregate for use as road base and pipeline bedding is hereby approved by the Department.

The construction and operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq., and all other applicable laws.

Additionally, the Department has reviewed the entire Middlesex County District Solid Waste Management Plan, including this amendment, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. The result of that review is as follows:

1. N.J.S.A. 13:1E-21b(4) requires a survey of proposed collection districts and transportation routes with projected transportation costs from collection districts to existing or available suitable sites for solid waste disposal facilities.

The Middlesex County Plan does not include truck routes to the proposed district resource recovery and landfill facilities. Therefore, the Middlesex County Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(4).

D. Other Provisions Affecting the Plan Amendment

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with the within amendment to the Middlesex County District Solid Waste Management Plan and which was executed prior to the approval of this amendment and subsequent to the effective date of the Solid Waste Management Act (July 29, 1977), and which shall further be for a term in excess of one year, shall immediately be renegotiated in order to bring same into conformance with the terms and provisions herein set forth. Any solid waste collection operation or disposal facility registered by the Department of Environmental Protection and operating pursuant to a contract as herein described, shall be deemed to be in violation of these amendments and of the Middlesex County District Solid Waste Management Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments; provided, however, that any such registrant may, upon application to the Department of Environmental Protection, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and collector/haulers registered with the Department of Environmental Protection and operating within Middlesex County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Middlesex County District Solid Waste Management Plan. Any facility operator or collector/hauler who fails to comply with the provisions contained herein shall be deemed to be in violation of N.J.S.A. 13:1E-1 et seq., in violation of N.J.A.C. 7:26-1 et seq., and in violation of their registration to operate a solid waste facility or a collection system issued thereunder by the Department of Environmental Protection and shall be subject to the provisions and penalties of N.J.S.A. 13:1E-9, and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the District Solid Waste Management Plans

The provisions of the Middlesex County District Solid Waste Management Plan shall apply to all solid wastes defined in N.J.S.A. 13:1E-3 and N.J.A.C. 7:26-2.13 and shall not apply to liquid wastes, sewage sludge, septage, and hazardous wastes. Also, all non-hazardous materials separated at the point of generation for sale or reuse are excluded from the waste flows designated in the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26-6).

4. Certification to Proceed with the Implementation of Plan Amendments

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Middlesex County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved portions of the amendment contained herein.

5. Definitions

For the purpose of this amendment and unless the context clearly requires a different meaning, the definitions of terms shall be the same as those found at N.J.S.A. 13:1E-3 and N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of Amendments

The approved portions of the amendment to the Middlesex County District Solid Waste Management Plan contained herein shall take effect immediately.

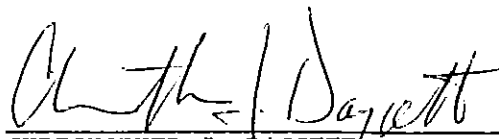
7. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Middlesex County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan. The Department has published a Statewide Solid Waste Management Plan with appendices which includes the Department's planning guidelines and rules, regulations, and orders of the Department, including the interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval in Part and Rejection in Part of the Amendment and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq; I hereby approve in part and reject in part the amendment as outlined in Section C. of this certification, to the Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on June 1, 1989. I further direct the Middlesex County Freeholders to remedy the deficiency outlined in Section C. of this certification as soon as possible.

November 3, 1989
DATE


CHRISTOPHER J. DAGGETT
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION